THE SPECIALISTS WHO MONITOR HUMAN RIGHTS

They meet with presidents and with the oppressed. They talk with prisoners and with prison directors. Their task is to help protect human rights the world over. They are the United Nations special rapporteurs on human rights.

These specialists—judges, professors, members of parliament—are appointed by the Geneva-based United Nations Commission on Human Rights, the main United Nations body concerned with protecting human rights. They assist the Commission in monitoring human rights in all countries, and act to safeguard those rights.

The rapporteurs provide a means for responding to the hundreds of thousands of allegations of human rights violations that reach the United Nations every year. They have developed innovative ways to carry out their task, and have a unique role in international human rights protection.

Some rapporteurs focus on a specific country, while others deal with issues. The country rapporteurs are Felix Ermacora of Austria, who monitors the human rights situation in Afghanistan; Reynaldo Galindo Pohl of El Salvador, whose subject is Iran; José Antonio Pastor Ridruejo of Spain, who focuses on El Salvador; Joseph Voyaume of Switzerland, who focuses on Romania; Rafael Rivas Posada of Colombia, whose subject is Cuba; Max van der Stoel of the Netherlands, who deals with Iraq; and Walter Kälin of Switzerland, who concentrates on human rights in Kuwait under Iraqi occupation.

The thematic rapporteurs are Kenyan S. Amos Wako, who reports on summary and arbitrary executions; Peter Kooijmans of the Netherlands, who examines allegations of torture; Angelo Vidal d'Almeida Ribeiro of Portugal, who reports on religious intolerance; Vitit Muntarbhorn of Thailand, who focuses on the sale of children and other abuses such as child prostitution and pornography; and Peruvian Enrique Bernales Ballestreros, who examines the negative impact of mercenaries on the right to self-determination.

In addition to individuals, the United Nations has also established groups to investigate human rights abuses. A five-member Working Group on Enforced or Involuntary Disappearances was set up in 1980, following the tragic increase in many countries in the number of missing persons—often made to disappear by security forces or paramilitary groups.

The pioneer group on human rights is the six-member Working Group of Experts on Southern Africa, set up by the Commission in 1967. The three-member Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories was set up by the United Nations General Assembly in 1968.

A five-member Working Group entrusted with the task of investigating cases of arbitrary detention was established in 1991. It will meet for the first time later this year to develop its working methods.

FROM FACT-FINDING TO HUMANITARIAN INTERVENTION

The rapporteurs and working groups gather information from many sources, including Governments, human rights organizations, witnesses, victims, and relatives or representatives of victims.

Rapporteurs do not restrict themselves to receiving complaints, but go out and seek information. This is essential, since the general public is still not fully aware that it is possible to present a complaint to the United Nations. The rapporteurs can and do act promptly, report publicly, and seek out information by hearing witnesses and making on-the-spot visits.

In response to allegations of human rights violations, they contact the Government concerned, calling, on humanitarian grounds, for the protection of the human rights of the alleged victim.

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The Commission in certain cases decides to appoint a rapporteur when other means have failed. When the Commission is informed of widespread human rights violations in a country, it may examine the question under a confidential procedure, and discreetly contact the Government to resolve the situation. But the Commission may also go public and appoint a rapporteur or working group.

Every year the rapporteurs and working groups submit a report to the Commission and/or General Assembly in which they assess the situation in the past 12 months, explain the initiatives they took to defend human rights, and make recommendations to remedy the situation.

The Commission and the Assembly take action on the basis of the report. They have, variously, asked for more cooperation from Governments, in particular for permission for rapporteurs to visit their country; urged States to guarantee the freedoms they allegedly have allowed to be violated; appealed for an end to conflicts, which contribute to human rights violations; and urged Governments to refrain from intimidation and reprisal against those who seek to cooperate with the United Nations, or seek to use United Nations procedures for human rights protection.

IMPARTIAL AND INDEPENDENT

Rapporteurs see their role as an impartial and independent one. Their task is to improve a human rights situation, not to single out a country.

"My role is not to make accusations or value judgements", D'Almeida Ribeiro reported to the Commission in 1991, "but to help arrive at a better understanding of the circumstances surrounding [religious] intolerance and discrimination, . . . to mobilize international public opinion, and to establish a dialogue with the Governments and all other parties concerned."

"If there is a policy, it is only that of pursuing the realization of human rights", stated Galindo Pohl, the rapporteur on Iran, to the 1990 General Assembly. "It does not have as an objective to uphold or destabilize Governments, but to obtain, through persuasion or criticism, and in the last instance through the force of public opinion, the observance of human rights."

"The purpose of international monitoring", he said in his 1991 report, "is to bring about fulfilment of international human rights obligations by gathering information and evaluating, analysing and criticizing it."

The task of the rapporteur, he added, "is one plagued by doubt, questions, conflicts of conscience and contradictory requests, and it is a difficult one because the aim is to guarantee objective and independent international monitoring and compliance with international instruments".

Appeals to protect individuals also seek to improve the overall situation. "The Special Rapporteur [on torture] strongly feels that he would perform his function in a half-hearted way if he confined himself to transmitting allegations to Governments without offering advice to them on how to fight effectively the phenomenon of torture", Kooijmans stated in 1991.

INNOVATIVE METHODS

The rapporteurs and working groups have developed innovative methods to protect human rights. A method which has proven particularly effective is the urgent-action procedure.

In response to allegations of disappearances, torture, or imminent summary or arbitrary executions, the rapporteurs send an urgent-action cable to the Minister for Foreign Affairs of the country in question, appealing for the protection of the individuals concerned. In 1990 alone, more than 1,000 urgent individual cases were referred to Governments in this way.

The procedure was first developed by the Working Group on Enforced and Involuntary Disappearances, and then emulated by the rapporteurs on summary and arbitrary executions and on torture.

The Working Group on Disappearances reported in 1990 that clarifications under the urgent-

action procedure were as high as 25 per cent. This suggests, it said, that by acting swiftly, the Group may help prevent irreparable damage.

For S. Amos Wako, "effective response to information in cases where a summary or arbitrary execution is threatened or imminent is one of the most important aspects of my mandate, since timely response by a Government to whom an urgent appeal is addressed could be vital".

"The number of requests for urgent appeals is steadily increasing", Kooijmans stated in his 1991 report. "Such appeals are purely humanitarian in character. They refer to situations where people are actually under detention, and where fear is expressed that they are or may be subjected to torture."

Individuals or members of human rights organizations who avail themselves of United Nations human rights procedures—or attempt to—may be subjected to intimidation or reprisals. To help prevent such occurrences, a "prompt intervention" procedure was started in 1990. Whenever reports are received on intimidation or reprisals, the rapporteurs or working groups immediately contact the Minister for Foreign Affairs of the country concerned, appealing for immediate steps to protect the person affected.

COUNTRY VISITS

At Government invitation, rapporteurs visit the country (or countries) they cover. Such visits permit them to get directly acquainted with the human rights situation of a country, to hear victims, witnesses and members of national human rights organizations, and to discuss with Government authorities ways of improving human rights protection. On their visits, the rapporteurs are accompanied by staff members of the Geneva-based United Nations Centre for Human Rights.

The Working Group on Enforced or Voluntary Disappearances reported to the Commission that it "has relied on visits as a preferred option for assessing the overall situation of disappearances in a given country. . .Working relationships established in the course of a visit usually continue afterwards. A visit also enables the Group to get the views of people from different segments of society, in order to analyse properly the context of disappearances."

Rapporteurs try to get the widest possible picture. For example, during his October 1990 visit to El Salvador, Pastor Ridruejo met with President Alfredo Cristiani, senior Government officials, and officers of the army and security forces. He also interviewed witnesses brought forward by humanitarian organizations, and talked with members of peasant and trade union movements.

He visited a prison where he was able to talk confidentially to political prisoners. He also interviewed representatives of the guerrilla movement, the Farabundo Martí National Liberation Front (FMLN), outside the country.

Visiting his region in September 1990, Ermacora met in Pakistan with Government officials, representatives of humanitarian organizations and leaders of the Afghan opposition. He visited a refugee village where he spoke with refugees from different parts of Afghanistan.

In Afghanistan he was received by President Mohammad Najibullah and the Ministers for Foreign Affairs, the Interior, Justice, Defence, State Security, Repatriates' Affairs and Education. In Kabul he visited a hospital for war-wounded and a prison, where he talked with inmates. In addition, for the first time he was able to visit areas not under Government control.

During his 1990 visit to Iran, Galindo Pohl met with the Minister for Foreign Affairs, the Minister of Intelligence and the Head of the Judiciary. He visited a prison, where he talked with the Director and with prisoners in private. He also met members of human rights organizations, writers and private individuals.

In 1990, the Ad Hoc Working Group of Experts on Southern Africa and the Special Committee to Investigate Israeli Practices—which did not receive Government permission to visit South Africa and the territories occupied by Israel—heard in neighbouring countries witnesses having first-hand experience. The Ad Hoc Working Group also travelled to Namibia.

COMBATING EXECUTIONS . . .

In 1990 S. Amos Wako, the rapporteur on summary and arbitrary executions, was in contact with 49 countries. In response to allegations of imminent executions, he cabled urgent messages to 25 Governments concerning 258 cases, appealing for the Government's protection of the right to life of the individuals concerned and requesting information. Fifteen Governments replied. He also sent letters to 45 Governments on alleged executions in their countries, receiving replies from 17.

The rapporteur has made use of the urgent-action procedure whenever a life-threatening situation was brought to his attention. He was thus able to obtain the commutation of death sentences, or the re-trial of persons sentenced to death as a result of proceedings which did not respect international human rights standards.

In his communications with Governments, Wako presents to them a factual summary of the case, and a reference to the applicable international human rights laws and standards. While some Governments have not responded or have responded incompletely, more and more Governments are submitting to the rapporteur responses that address the cases into which he inquired.

In the last ten years, Wako's mandate has considerably developed. He now reports on allegations of deaths which have taken place as a result of torture or cruel, inhuman or degrading treatment or punishment during detention, or as a result of assault or abuse of force by governmental or paramilitary forces. He also looks into all other cases of extra-judicial killings in which Governments do not live up to their reponsibilities under international law.

Reporting to the Commission in 1991, Wako said that although States do not always fulfil their responsibilities perfectly, in a number of instances Governments are earnestly striving to prevent killings, carry out proper investigations, and conduct legal proceedings against those believed to be responsible for extra-legal executions.

He expressed appreciation to those Governments which had responded to his appeals. But he stressed the need for Governments to provide him with information on investigations, including autopsy reports, together with information on legal proceedings and measures taken to prevent further loss of life.

. . . DISAPPEARANCES . . .

Since 1980, the Working Group on Enforced or Involuntary Disappearances has accumulated an overall caseload of more than 20,000 cases of disappearance, pertaining to some 45 countries.

For reasons well beyond the scope of the Working Group, only a fraction of the cases have been clarified. But the extent to which the Working Group, through its patient and persistent contact with Governments, may have prevented more cases from occurring cannot be quantified. The fact that it was able, especially through its urgent-action procedure, to contribute to clarifying cases, and thus possibly save human lives, has been considered sufficient reason to continue its activity.

The Group receives and examines reports on disappearances submitted by relatives of missing persons or human rights organizations. After determining their validity, it transmits individual cases to the Governments concerned, requesting them to carry out investigations and to report on their results. Cases are retained on file until the exact whereabouts of the missing persons have been determined.

The Group acts essentially as a channel of communication between the families of the missing persons and Governments, and has developed a dialogue, aimed at solving cases, with most Governments concerned.

In 1990 the Working Group transmitted to Governments 987 newly reported cases of disappearances (447 under the urgent-action procedure); 101 were clarified the same year.

At least once a year, the Group reminds every Government of the cases which have not been clarified. All unresolved cases transmitted in the previous six months under the urgent-action procedure are reported again to the Government concerned every January and July.

Reporting to the Commission in 1990, the Group said that "in line with its non-accusatory approach, [it] does not engage in the attribution of responsibility of individual officers or agents of the State for individual cases of disappearance. . . The Group is primarily interested in the matter of responsibility from the perspective of prevention of disappearances."

Governments often cooperate, clarifying cases of missing persons, or inviting the Group to visit their country. Sometimes they report that the missing person was released from detention.

"The problem of disappearances has not abated", the Group reported to the Human Rights Commission in 1991. But "a growing awareness of the problem as well as the existing international procedures have made it possible for relatives or an increasing number of non-governmental organizations to draw the attention of the international community to cases that in the past would have remained hidden.

"The Working Group does not function in isolation", the report added, "dependent as it is on a flow of information from independent sources as well as on the cooperation of States. . . The Group notes with satisfaction that there are at present few Governments that do not cooperate with it. Very valuable is the growing interest shown by relatives of disappeared persons and by non-governmental organizations."

. . . AND TORTURE

As is the case with other rapporteurs, the rapporteur on torture corresponds with Governments, transmitting to them cases of alleged torture or ill-treatment, and asking for information on the investigation carried out into such allegations.

He also receives requests for urgent action regarding detainees. When he deems such requests to be well-founded, he draws the Governments' attention to them, asking them to ensure that the right to physical and mental integrity of the detainees is protected, and that they are given humane treatment.

During 1990, Kooijmans sent cables concerning nearly 400 detainees to 31 Governments, and appealed to them, on a purely humanitarian basis, to ensure the detainees' protection. Fifteen Governments replied.

Often Governments gave assurances that the cases were under investigation, or stated that the allegations were ill-founded or politically motivated. In some cases medical certificates were sent to corroborate the Governments' claims that the detainees had not been ill-treated and were in good health. In a few cases, Governments replied that the allegations were indeed well-founded and the officials responsible for torture or ill-treatment had been sanctioned.

Some Governments seem to be increasingly responsive to allegations of torture, Kooijmans reported to the Commission in 1991. "During 1990 a higher proportion of Governments which received letters or urgent appeals have heeded that request, by providing the special rapporteur with information."

But he added, "One thing is clear from the outset: the intensified campaign of the organized world community against torture. . . has not led to the eradication of that evil. Torture continues apace. . ."

GETTING RESULTS

It is difficult to assess the effects of international pressure on Governments. If a Government frees a political prisoner, it is usually impossible to tell why it decided to do so. Usually a combination of factors contributed to this result. One factor is the patient and persistent action of the special rapporteurs and working groups.

Their reports help focus world attention on human rights violations, thereby exerting pressure on Governments. All reports are published, and publicly discussed by the Commission on Human Rights at its annual session—a discussion in which representatives of both Governments and human rights organizations participate.

At the Commission, several country delegations have repeatedly stressed that States are obliged to cooperate with its monitoring procedures. The Commission itself has many times urged Governments to cooperate with the rapporteurs.

Rapporteurs have established a personal dialogue with Governments, and carry it out throughout the year. This constant dialogue will continue—and continue to save lives.

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THE TRADE OF SHAME
The sale of children

▸ A six-year-old girl is sold to a family who is looking for a domestic servant.

▸ A boy is sold to work as a shepherd, because his parents cannot afford to feed him.

▸ Children are given away to employers in neighbouring countries, to work there as smugglers or domestic servants.

These cases of sale or exploitation of children took place in Latin America. They were reported to the United Nations in 1988 by the Defence for Children International Movement, a non-governmental organization (NGO) working to curb this practice.

There are three main manifestations of the sale of children, states a 1987 United Nations report: children are sold for adoption, for forced labour and for prostitution. The practice is not limited to the developing world, but concerns many countries around the globe.

INTERNATIONAL ADOPTION

From the 1950s, when the adoption of war orphans from Asia became common, there arose the threat of commerce in children, especially involving the flow of children from Asia and South America to Europe and North America.

The demand for children in the industrial world led to a parallel supply of children in the developing countries. Adoption agencies linked with the business sector have mushroomed in some countries, with the sole aim of facilitating international adoption for cash.

The channels for international adoption are at times clandestine and illegal. Often the seemingly legal entry of a child into a country for adoption is obscured by dubious practices in the country of origin. Often would-be adoptive parents bypass official authorities and act through their own means.

When adoptions take place without court supervision, they may involve the sale of children. Intermediaries exploit the ignorance and bewilderment of parents. They may offer to relieve them of their child for a fee and, at the same time, extract a much larger payment from the adopting parents.

Thousands of children over the last decade have been more or less fraudulently adopted by families in North America and Western Europe, the NGO International Abolitionist Federation reported to the United Nations in 1989. Poor parents received a tiny amount of money for which they could stave off hunger for a while or pay off some of their debts, while middlemen or Western-based adoption agencies could make between $2,500 and $10,000 for a healthy child.

CHILD LABOUR

In the developing world large numbers of children, some of whom are still very young, have to work for lengthy periods after having been sold or bonded.

There are no precise figures on child labour or the sale of children for child labour. Developing countries in the past 20 years have considerably increased the enrolment rate in primary schools, according to a study of the International Labour Organisation (ILO). But enrolment in secondary schools is still very low—between 19 and 34 per cent, depending on the country. The implication is that most children work instead of attending secondary school.

In the case of the sale of children for forced labour, estimates are even more difficult to obtain, since, where the law prohibits child labour, the practice is doubly illegal.

Children may be sold for labour in various ways: the employer may give all or part of the child's wages in advance to the family, or may undertake to pay the child's wages to the parents. Many intermediaries and agencies operate in the developing world, where children may be bought

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for very little. When children are recruited by agencies, they may be sold virtually into bondage to work in agriculture, in factories or in domestic work.

CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Since the sale of children for prostitution is clandestine, it is difficult to obtain accurate information. But indications show that the numbers are increasing. According to some NGOs, younger children and an increasing number of boys are involved.

Child prostitution is a global phenomenon. It is particularly evident in the developing world, partly due to the pervasive poverty which induces parents to sell their children or drive them into prostitution. It is linked with serfdom, debt bondage, forced marriages and sex tourism.

Sex tourism has aggravated the problem, and led to a greater number of boy prostitutes. Prostitution itself is only one step away from other tragic problems, such as drugs and AIDS. The rise in the number of AIDS-afflicted children adds an urgent call of distress.

Like child prostitution, child pornography inflicts physical and psychological damage on the child. The setting has become more complicated with the availability of video equipment, which can rapidly increase the international production and sale of pornography.

Reporting to the United Nations in 1989, the Norwegian NGO Save the Children noted that there were obvious linkages between the debt crises of many third world countries and the sexual exploitation of children. In this sense, sexual exploitation of children was basically a poverty problem, and should be treated as such, the NGO stated.

UNITED NATIONS ACTION

The United Nations has long been concerned with the problem of child labour, child prostitution and the sale of children. The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, and its Working Group on slavery and the slave trade, are the UN organs most directly involved.

A recent initiative of the Sub-Commission was the drafting of a programme of action for prevention of sale of children, child prostitution and child pornography. The programme calls for national and international measures, including information, education, assistance and rehabilitation, legislative measures and stronger law enforcement. The Sub-Commission in 1990 sent the draft programme to Governments, specialized agencies and NGOs, and is now considering their comments and possible amendments.

The Sub-Commission also proposed in 1990 a programme of action for the elimination of the exploitation of child labour. The programme was sent for comments to Governments, specialized agencies and NGOs.

The United Nations Children's Fund (UNICEF) is increasingly directing its activities towards children in difficulty, including those affected by this problem. The International Labour Organisation is another key contributor, with initiatives such as its programme on the elimination of child labour.

UN CONVENTION

A powerful legal tool to curb the sale of children is the 1989 United Nations Convention on the Rights of the Child, which has been ratified by 87 States. The Convention obliges States parties (article 35) to "take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form".

To prevent illegal adoptions, the Convention (article 21) requires preliminary examination of adoption in the home country, authorization of adoption by competent authorities and, in international adoptions, measures to prevent improper financial gains.

On child prostitution, the Convention prescribes (article 34) that "States Parties shall...take all appropriate...measures to

prevent. . .the exploitative use of children in prostitution or other unlawful sexual practices". The Convention also obliges States to prevent the exploitative use of children in pornographic performances and materials.

SPECIAL RAPPORTEUR

Alarmed by the dimensions of the phenomenon, the UN Commission on Human Rights—the main UN body concerned with human rights protection and the parent body of the Sub-Commission on Prevention of Discrimination and Protection of Minorities—decided in 1990 to appoint a special rapporteur on the sale of children, child prostitution, child pornography and adoption of children for commercial purposes.

In September 1990, the Commission appointed as rapporteur Vitit Muntarbhorn, of Thailand, a law professor and an expert on the rights of the child. Muntarbhorn submitted his first report in January 1991.

CAUSES. . .

"The sale of children is a universal phenomenon", Muntarbhorn says in his report. "Its transnationalism has been aggravated by the advent of unabashed consumerism, modern technology and rapid communications."

Some of the causes of child exploitation are well known, he says. Poverty emerges as a common thread, but there are accompanying causes. The fragmentation and breakdown of the family, compounded by migration, exerts an inordinate pressure on children. Child abuse may arise: it is well established that many child prostitutes were abused earlier.

Gender discrimination is also visible, leading to disadvantages for the girl child, for instance in families where boys have priority for access to schooling.

This is compounded by cultural practices, such as the persistent viewpoint in some societies that children are the property of parents, and the social acceptance of prostitution and pornography.

At the other end, there are criminal elements who seek to exploit children, ranging from procurers to syndicates, from unscrupulous employers to subcontractors, from agents to profiteers, colluding at times with law enforcement officials.

. . .AND REMEDIES

Legal sanctions are now available through national and international structures, Muntarbhorn notes, but implementation is insufficient and demands greater commitment.

For instance, on child labour "a host of laws exist at both the international and national levels, fluctuating between the need to abolish child labour and the need to regulate it. Both approaches have been hampered by the fact that law enforcement is poor", often because of ineffective police and a shortage of labour inspectors.

Laws should be bolstered by a score of social, economic and political measures, Mutarbhorn says. Does it suffice to stipulate a minimum age for child labour when the family is pushing the child to work? What social welfare, subsidy or other incentive is there to help parents resist sending the child to work and encourage him/her to go to school? How attractive is schooling to the child or to the parents when there is little to eat at home?

While all countries have laws on child labour, many still do not have laws providing social welfare to families and children, Muntarbhorn notes. Laws seek to punish transgressors, but seem to forget that incentives may be required to induce employers not to use child labour.

The same is true for child prostitution. There are many national and international laws against that practice, he says. But again the law in itself, abolishing, prohibiting or regulating the problem, does not suffice. Other interventions are required—educational opportunities, job alternatives, social subsidies—not only for the child but also for the family.

Where the sale of children is rooted in cultural practices, laws alone will not suffice to overcome

age-old beliefs, he says. This entails a different socialization process, carried out through education and information. It requires imaginative use of the mass media, and community involvement in questioning ingrained taboos and prejudices.

INTERNATIONAL ACTION

The international aspects of the sale of children, child prostitution and child pornography call for more international efforts to tackle the problem, Muntarbhorn says.

There is a need for stricter law enforcement and related sanctions. The role of law enforcement authorities, particularly INTERPOL, the International Criminal Police Organization, is important at the international level. INTERPOL now has a model crime-prevention programme with a bearing on child exploitation. It is also circulating to States a questionnaire to identify facts and figures on offences against minors.

There are many international treaties on the subject, Muntarbhorn notes, including the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ILO conventions on minimum age for child labour and on forced labour, and the UN Convention on the Rights of the Child.

The legislative framework already exists. Its shortcomings include the antiquated nature of some treaties, the paucity of accessions by States, and the lack of implementation by the States which have acceded. And treaties do not provide an adequate preventive approach to tackle the root causes of the problem, Muntarbhorn says. No convention seeks for instance to establish the broad social interventions required to help poor families.

RESPONSES REQUIRED

The problem involves not only economic but also socio-cultural aspects, such as ingrained attitudes against women, the image of children as the property of parents and apparent acceptance of sexual exploitation in some communities. Education and dissemination of information to change attitudes and behaviour need greater encouragement.

The root causes of the phenomenon will condition the responses required, Muntarbhorn says. "Economic disparities, social deprivations, family disintegration, unadulterated consumerism and systematic exploitation are but some of the ostensible causes. In terms of countermeasures, far more than laws and regulations are required to prevent and eliminate these factors. Political and social will, programme-linked policies, development assistance and budgetary commitment are but some of the inter-disciplinary requisites."

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